the statute. *People v. McGuire,* 113 App. Div. (N. Y.) 631; *People v. Ewer,* 8 N. Y. Cr. Rep. 383; *State v. Warren,* 113 N. C. 683. When, however, the provisions, though in a measure pertinent to the object, are needlessly sweeping, extending palpably beyond the justifying purpose, it is the prevailing judicial tendency to declare the statute void. *People v. Warden of N. Y. City Prison,* 157 N. Y. 116 (ticket brokerage forbidden,—professed object, prevention of fraudulent sales); *People v. Marx,* 99 N. Y. 377 (manufacture and sale of oleomargarine forbidden,—object, the prevention of the fraudulent substitution for butter); *Weisner v. Village of Douglas,* 64 N. Y. 91 (taxation condemned as confiscation); *People v. Green,* 85 App. Div. (N. Y.) 400 (regulation of billboards condemned as needlessly sweeping); *R. R. Co. v. Husen,* 95 U. S. 465 (prohibition of the importation of cattle, condemned as extending beyond the necessities of quarantine). Under the literal construction given to the Massachusetts statute, the holding of the principal case seems to deviate from, as its opinion clearly ignores, the judicial tendency last mentioned.

CONTRIBUTION—JOINT TORT—FEASORS—NEGLIGENCE—FURBECK V. GEOURTZ & SON, 143 PAC. (ORE.) 654.—*Held,* where a personal injury was not caused intentionally, a right of contribution exists between the persons whose negligence caused the injury.

The general rule is that there is no contribution between joint wrong-doers. *Merryweather v. Nixon,* 8 Term Reports 186. But this general doctrine has been limited in its scope by the courts so that the rule is held not to apply where the party seeking contribution was a tort-feasor only by inference of law. *Bailey v. Bussing,* 28 Conn. 455. To deprive one of the right of contribution, the wrongful act must have been *malum in se. Buskirk v. Sanders,* 73 S. E. (W. Va.) 973. The rule applies only to cases where the parties who claim contribution have engaged together in doing knowingly or wantonly a wrong. *Acheson v. Miller,* 2 Oh. St. 203. The test of recovery is whether the plaintiff at the time of the commission of the act for which he has been compelled to pay, knew that such act was wrongful. *Torpy v. Johnson,* 43 Neb. 882. Where attachment creditors attached the supposed goods of their debtor which they honestly believed had been fraudulently transferred to a third party, contribution for this trespass was allowed. *Farwell v. Baker,* 129 Ill. 261; *Vandiver & Co. v. Pollak,* 107 Ala. 547. In cases of joint negligence, the weight of authority seems to be opposed to the principal case. One, whose negligent act, in concurrence with a separate and distinct negligent act of another, has been the proximate cause of an injury, for which he has been compelled to pay, cannot recover by way of contribution from the other tort-feasor. *City of Louisville v. Louisville Ry. Co.,* 156 Ky. 141; *Central Ry. Co. v. Macon Ry. & Light Co.,* 9 Ga. App. 628; *Spalding v. Adm'r of Oakes,* 42 Vt. 343. There are cases, however, which support the view of the principal case that the rule disallowing contribution between joint wrong-doers has no application to torts which are the result of unintentional negligence. *Mayberry v. Northern Pac. Ry. Co.,* 100 Minn. 79; *Armstrong County v. Clarion*

County, 66 Pa. St. 218. On principle there would seem to be no reason why the equitable doctrine of contribution should not apply where there has been joint unintentional negligence.

EQUITY—ANNULMENT OF MARRIAGE—PERSONS ENTITLED TO SUE.—EWALD V. EWALD, 106 N. E. (MASS.) 567.—*Held,* Petitioner, in an action for annulment of marriage, resting her case upon the allegation that she acted with the deliberate intention of evading the laws of the commonwealth in which she was and has continued to be a resident, and making such wrongful conduct the ground for relief, did not come into the court with clean hands and would be left in the position in which she had placed herself.

There are few American authorities directly in point. It is well settled that where a party innocently marries in violation of the law of the domicile, equity will grant relief. *Fuller v. Fuller,* 33 Kans. 582. In England the rule is that relief will be given even though the plaintiff intended to violate the law. *Andrews v. Ross,* 14 P. D. 15; *Miles v. Chilton,* 1 Rob. Ecc. 684. In 1 *Bishop on Marriage and Divorce,* (4th ed., § 300) it is stated that fraud on the part of the plaintiff is no defence in a suit to procure a declaration of nullity *ab initio* by reason of pre-contract. *Summerlin v. Livingston,* 15 La. Ann. 519, held that where the representatives of a deceased wife sued the husband to obtain her share of the joint property, that he was not estopped to set up his own turpitude as a defence. The court remarked that he could not have availed himself of his wrong-doing as a basis for a demand. This dictum is in accord with the principal case, which is supported by *Rooney v. Rooney,* 54 N. J. Eq. 231, and *Kerrison v. Kerrison,* 60 How. Prac. (N. Y.) 51. *Marshall v. Marshall,* 2 Hun. (N. Y.) 238, was similar to the principal case in its facts and in that case a contrary rule was adopted, the court, Daniels, J., *dissenting,* following the English rule.

FRAUD—JUDGMENTS—MEASURE OF DAMAGES.—HINES V. BRODE, 143 PAC. (CAL.) 729.—*Held,* In an action for fraud in the sale of land, the measure of damages is the difference between the actual value of the property and its value if as represented, plus depreciation in the value of improvements made by purchaser, resulting from the fact that the land was not as represented.

Where fraud has been practiced in the sale of land, the defrauded party may rescind the contract or he may affirm it and recover damages for the fraud. *Rice v. Olin,* 79 Pa. 391.

Concerning the measure of these damages there are two lines of cases (both allow for improvements made under the supposition that the representations were true). The first, recognized in some thirty States, allows the plaintiff to recover the difference between the value *as represented* and the *actual* value at the time of sale (that is, the difference between what the vendee bargained for and what he got). *Smith v. Appleton,* 155 App. Div. 520; *Chapman v. Bible,* 137 N. W. (Mich.) 533; *Hicks v. Deemer,* 187 Ill. 164; *Linerode v. Rassmussen,* 63 Oh. St. 545.